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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TIMOTHY MOLYNEUX;

Case No.:

Plaintiff,

vs.

COMPLAINT

WEST COAST SERVICING, INC. a foreign
corporation.

Defendants.

Plaintiff TIMOTHY MOLYNEUX (hereinafter referred to as "PLAINTIFF"), by and through undersigned counsel, bring this complaint against Defendant, WEST COAST SERVICING, INC. (hereinafter referred to as "DEFENDANT") and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. PLAINTIFF brings this action for statutory damages arising from DEFENDANT's violations of the Fair Debt Collection Practices Act (hereinafter referred to as the "FDCPA"), 15 U.S.C. § 1692, *et seq.*

JURISDICTION AND VENUE

2. The Court has jurisdiction over this action pursuant to 15 U.S.C. § 1692k(d).

1 3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of
2 the events giving rise to the claim occurred in Las Vegas, Nevada.

3
4 **PARTIES**

5 4. PLAINTIFF resides in Las Vegas, Nevada.

6 5. PLAINTIFF is a “consumer” as defined in the FDCPA at 15 U.S.C. § 1692a(3).

7 6. PLAINTIFF allegedly owes a (past due) consumer “debt” as defined by 15 U.S.C.
8 § 1692a(5).

9 7. DEFENDANT is a foreign corporation, the principal purpose of whose business
10 is the collection of debts.

11 8. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT
12 regularly collects or attempts to collect consumer debts owed or due or asserted to be owed or due
13 another and that DEFENDANT is a “debt collector” as defined by 15 U.S.C. § 1692a(6).
14

15 **STATEMENT OF FACTS**

16 9. PLAINTIFF repeats, re-alleges, and incorporates by reference, paragraphs 1
17 through 8 inclusive, above.

18 10. PLAINTIFF obtained a second mortgage on his Las Vegas home.

19 11. He stopped making payments on the second loan in 2010.

20 12. On or before May 1 2018, PLAINTIFF approached attorneys, Peters & Associates,
21 to assist him in dealing with the mortgage on his Las Vegas home.
22

23 13. On May 1, 2018, Peters & Associates notified DEFENDANT that they represented
24 PLAINTIFF with regard to the mortgage.

25 14. Despite knowledge that PLAINTIFF is represented by counsel, DEFENDANT
26 contacted him directly July of 2018, in an attempt to collect a debt.
27
28

1 25. Nevertheless, DEFENDANT continued to contact him directly in an attempt to
2 collect a debt in July, October and November of 2018.

3 26. As a result of DEFENDANT's FDCPA violations, PLAINTIFF is entitled to an
4 award of statutory damages.

5 27. It has been necessary for PLAINTIFF to obtain the services of an attorney to
6 pursue this claim, and is entitled to recover reasonable attorneys' fees therefor.
7

8 **SECOND CLAIM FOR RELIEF**

9 **VIOLATIONS OF THE FDCPA 15 U.S.C. §§ 1692e**

10 28. PLAINTIFF repeats, re-alleges and incorporates by reference, paragraphs 1
11 through 27 inclusive, above.

12 29. Debt collectors are forbidden from using "any false, deceptive, or misleading
13 representation or means in connection with the collection of any debt." 15 U.S.C. § 1692e.
14

15 30. Debt collectors must not falsely represent "the character, amount, or legal status of
16 any debt." 15 U.S.C. §1692e(2)(A).

17 31. Further, a debt collector may not use "any false representation or deceptive means
18 to collect or attempt to collect any debt." 15 U.S.C. §1692e(10).

19 32. In November of 2018, DEFENDANT misrepresented that PLAINTIFF's last date
20 of payment was in February of 2017 when it was really in 2010.

21 33. Further, DEFENDANT misrepresented that it could judicially foreclose on the
22 debt, when it only had 6 years from the date of default.

23 34. As a result of DEFENDANT's FDCPA violations, PLAINTIFF is entitled to an
24 award of statutory damages.
25

26 35. It has been necessary for PLAINTIFF to obtain the services of an attorney to
27 pursue this claim, and is entitled to recover reasonable attorneys' fees therefor
28

DEMAND FOR JURY TRIAL

Please take notice that PLAINTIFF demands trial by jury in this action.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF respectfully prays that this Court grant the following relief in PLAINTIFF'S favor, and that judgment be entered against DEFENDANT for the following:

- (1) For statutory damages awarded to PLAINTIFF, not to exceed \$1000, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- (2) For reasonable attorneys' fees for all services performed by counsel in connection with the prosecution of these claims;
- (3) For reimbursement for all costs and expenses incurred in connection with the prosecution of these claims; and
- (4) For any and all other relief this Court may deem appropriate.

Dated this 28th day of February 2019.

Respectfully Submitted,
GESUND & PAILET, LLC

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